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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,433	08/30/2006	John Brewster	921095-103903	4959
23644 7590 10/01/2008 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER GORDON, STEPHEN T				
ART UNIT 3612		PAPER NUMBER		
NOTIFICATION DATE 10/01/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent-ch@btlaw.com

Office Action Summary

Application No.

10/598,433

Applicant(s)

BREWSTER, JOHN

Examiner

Stephen Gordon

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 16-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 30 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Claims 16-24, as newly amended or presented, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 as newly amended, line 8 is confusing as it is not clear if/how the newly recited anchor pin relates back to the previously recited anchor pin of line 7. Lines 15-17 as newly amended are generally very confusing and not understood. Specifically, "said securement terminal" bridging lines 15 and 16 is not understood and lacks clear antecedent basis - note "securement terminals" as such are previously recited at both lines 5 and 8. Is the recited "terminal" of lines 15-16 intended to cooperate with the terminal of line 8? Such is not clearly supported by the instant specification. How does this "securement terminal" relate to the terminating members of lines 10-11. The claim is very confusing in this regard. In line 16, "said strap...ends" lacks clear antecedent basis as such elements are previously recited at both lines 5-6 and 10-11. The term "said securement terminal" bridging lines 16 and 17 is very confusing and lacks clear antecedent basis - note "securement terminals" as such are previously recited at lines 5, 8, and 15. Is the recited "terminal" of lines 17-19 intended to cooperate with the terminal of line 8? Such is not clearly supported by the instant specification. How does this "securement terminal" relate to the terminating members of lines 10-11? The claim is very confusing in this regard. Note also, even a securing terminal in the form of a pin includes a *loop end* connecting the strap to the pin as disclosed. In lines 18-19, "said

securement terminals" lacks clear antecedent basis and is generally very confusing for the reasons discussed above regarding similar such terms.

Claim 17 as newly amended is generally very confusing and not understood. How does the "anchor" of line 1 relate to the "anchor fitting" of the base claim? Are they the same element? The claim is not clear in this regard. Additionally, "said front surface of the anchor" lacks clear antecedent basis.

Claim 18, "said inside surface" lacks clear antecedent basis as "inside surfaces" per se are previously recited at both base claim 16 – line 14 and in intervening claim 17.

Claim 19 as newly amended is generally confusing and not understood. Note "said flexible tensile member" of line 5 lacks clear antecedent basis in view of the added language to base claim 16 at line 10. Note a similar confusing term appears in line 6.

Claim 20 as amended is generally very confusing and not understood. As indicated in the last office action, the recited first and second tensile members are confusing as it is not clear if/how such members relate to the tensile member of the base claim in line 18 thereof. The claim as recited would appear to positively recite three tensile members - such is confusing and inconsistent with the disclosed device. Additionally, the additional recitation of "a flexible tensile member" added to the base claim at line 10 further makes understanding of this claim language difficult. The terms "said securement terminal" in both lines 2 and 3 are generally very confusing - note discussion above of similar terms included in base claim 16.

Claim 21 as newly amended, lines 5-6 are confusing as it is not clear if/how the second recited anchor pin of line 6 relates back to the first recited anchor pin of line 5. In line

11, "said anchor fitting" lacks antecedent basis. Lines 13-16 as newly amended are generally very confusing and not understood. Specifically, "said securement terminal" in line 13 is not understood and lacks clear antecedent basis - note "securement terminals" as such are previously recited at both lines 2 and 6. Is the recited "terminal" of line 13 intended to cooperate with the terminal of line 6? Such is not clearly supported by the instant specification. How does this "securement terminal" relate to the terminating members of lines 8-9. The claim is very confusing in this regard. In line 14, "said strap...ends" lacks clear antecedent basis as such elements are previously recited at both lines 3-4 and 8-9. The term "said securement terminal" in line 14 is very confusing and lacks clear antecedent basis - note "securement terminals" as such are previously recited at lines 2, 6, and 13. Is the recited "terminal" of lines 14 intended to cooperate with the terminal of line 6? Such is not clearly supported by the instant specification. How does this "securement terminal" relate to the terminating members of lines 8-9? The claim is very confusing in this regard. Note also, even a securing terminal in the form of a pin includes a *loop end* connecting the strap to the pin as disclosed. In lines 15-16, "said securement terminals" lacks clear antecedent basis and is generally very confusing for the reasons discussed above regarding similar such terms.

Claim 23, "said inside surface" lacks clear antecedent basis as "inside surfaces" per se are previously recited at both base claim 21 – line 12 and in intervening claim 22.

Claim 24, the term "anchor system" in the preamble is inconsistent with the base claim preamble. In line 2, the recited flexible member is confusing as it is not clear if/how

such member relates back to the flexible members recited in the base claim at either of lines 7-8 or 15. The term "said securement terminal" in line 3 is confusing and lacks clear antecedent basis for reasons similar to those discussed above with regard to such terms in base claim 21. The recited "first end" in line 2 is confusing as it is not clear if/how such term relates to the tensile member first end of the base claim. The terms "said first end" in line 3, "said anchor pin", and "said second end" lack clear antecedent basis.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 16-24, as newly amended/presented and as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis et al. '048.

Lewis et al teaches an anchoring system for a load carried in a railcar including an anchor (track 4), a receiving section (e.g. one of the apertures 3) which is adapted to receive a "hook" (note slotted portion 22 defines a "hook" as broadly claimed) or a strap loop end (i.e. note strap loop end at 8 as broadly claimed), a securement aperture (i.e. another one of the apertures 3) adapted to receive pin 2+ which is fully insertable therein as broadly claimed, and a flexible tensile member 9 as broadly claimed and as best understood.

Regarding claim 16 as newly amended and new claim 21, the cavity formed by the rear of the track middle section defines a "clearance cavity" as broadly claimed. The edges

of the track member 14 interface with a railcar support member (e.g. the car wall) for mounting as broadly claimed. The back portion of the rail above the opening 3 readable on the receiving section which engages element 18 is deemed to define a contoured surface which cooperates as broadly claimed and as best understood.

Claims 17 and 22, the anchor is adapted as broadly claimed and as best understood.

Note also, in as much as the pocket per se is not a positively recited element of the instant claimed combination, the functional/positional language relating thereto is given little patentable weight.

Claims 18 and 23, the device is configured as broadly claimed and as best understood.

Claim 24, the device is designed for use with multiple flexible straps/tension members and reads on the claim as broadly recited and as best understood.

4. Applicant's arguments filed 7-2-08 have been fully considered but they are not persuasive.

Regarding the Lewis et al. reference, applicant indicates that the instant specification "makes it clear that the strap or steel binder may be looped *through* the receiving section" (emphasis added). While this is true, the instant *claims* as currently presented do not require such a limitation. Regarding claims 16 and 21 as newly presented, sewn web loop element 8 of Lewis et al. is deemed to define a binding loop end as *broadly claimed* and *as best understood*. The back contoured surface of Lewis et al. (see discussion of this surface in the section 102 rejection above) is "adapted to cooperate with and secure" the securement terminal of Lewis et al. which includes *both* pin 2 and

strap loop 8. Instant claims 16 and 21 further indicate that the strap loop end "is formed to *comprise* said securement terminal" (emphasis added). This language does not limit the securement terminal to *only* a strap loop (e.g. said securement terminal *consisting of* a strap loop). While the securement terminal of Lewis et al. includes pin element 2, the Lewis et al. securement terminal clearly *comprises* a strap loop at element 8. Moreover it should be noted, the numerous clarity issues around the terms "securement terminal" used throughout the claims and discussed under the section 112 rejection above make application of the prior art to the instant claims difficult. The prior art has been applied to the instant claims *as best understood*.

In general applicant should note, clearly applicant's invention as *disclosed* is different from the prior art and very likely defines patentable subject matter. The instant *claims* as currently presented, however, are deemed sufficiently broad that application of the prior art under 35USC section 102 as discussed above is deemed warranted. Additionally, the inclusion of the numerous clarity issues identified under the section 112 rejection above make application of the prior art cumbersome.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen Gordon/
Primary Examiner
Art Unit 3612

stg